

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law, 5<sup>th</sup> Floor  
124 Halsey Street  
P.O. Box 45029  
Newark, New Jersey 07101

**FILED**

JUL 23 2008

**BOARD OF PHARMACY**

By: Marianne W. Greenwald  
Deputy Attorney General  
Tel. No. (973) 648-4876

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF PHARMACY

IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	Administrative Action
	:	
MILTON BARASCH, R.P.	:	FINAL ORDER OF DENIAL
License No. RI 13520	:	OF REINSTATEMENT
	:	
TO PRACTICE PHARMACY IN THE	:	
STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Pharmacy upon receipt of a letter dated August 29, 2007 from respondent requesting reinstatement. On November 28, 2007 the Board held an investigative inquiry in response to that request. Respondent appeared and testified under oath. The Board has reviewed the Consent Order filed with the Board May 23, 2000, the Federal and State Judgments of Conviction, and respondent's sworn testimony on November 28, 2007. The following findings of fact and conclusions of law are made.

### FINDINGS OF FACT

1. Respondent was previously convicted of Medicaid Fraud in 1983 and his license to practice pharmacy was suspended for one (1) year.

2. Respondent's New Jersey license to practice pharmacy was revoked by way of a Consent Order filed on May 23, 2000. Respondent admitted to accepting claims for reimbursement to the Medicaid program without any drugs being dispensed, for his personal benefit and the benefit of S. Brothers Pharmacy between August 1996 and October 1998.

3. On May 23, 2002, respondent pleaded guilty in the United States District Court, District of New Jersey, to one count of Conspiracy to Commit Health Care Fraud in violation of 18 U.S.C. § 1347, for the above referenced fraudulent activity. On December 12, 2005, respondent was sentenced to 12 months in federal prison, ordered to pay \$2,500,000 in restitution, and serve a term of three (3) years supervised release.

4. Respondent pleaded guilty on May 19, 2003, in Essex County Superior Court to one count of Health Care claims Fraud, in violation of N.J.S.A. 2C:21-4.3, also for the above referenced fraudulent activity. On December 23, 2005, Essex County Superior Court sentenced respondent to four (4) years in state prison, suspended his Medicaid privileges for eight (8) years, and suspended his license to practice pharmacy for one (1) year. The judge ordered the sentence to run coterminous and concurrent with the federal charges. Respondent served one year in the Federal

Bureau of Prisons at Fort Dix, New Jersey. Respondent was released on December 29, 2006.

5. Based upon the conduct and/or conviction set forth in the May 2000 Order respondent's original state of licensure, New York, has suspended and/or revoked respondent's license.

6. Respondent has been ordered by the federal court to pay \$2,500,000 in restitution which he has testified will never be paid, and he admittedly has made no attempt to pay costs of the prior Board investigation as ordered in the May 23, 2000 consent agreement.

7. Respondent is currently on the Federal Office of the Inspector General exclusion list and is prohibited from having any involvement with any State or federally funded insurance program.

#### CONCLUSIONS OF LAW

1. Respondent has repeatedly failed to uphold the standards of decency and morality required to fully exercise the public trust in the practice of pharmacy. While employed as Pharmacist-in-charge, a position of elevated trust and responsibility, the respondent engaged in a calculated and detailed scheme to defraud Medicaid. Respondent has abused his position for private financial gain and evidenced a lack of good moral character. Mr. Barasch has offered no mitigation, nor compelling evidence as to his good moral character currently. Rather, he attributes his repeated criminal conduct to "stupidity" and he has failed to demonstrate any remorse or rehabilitation. The Board is not convinced the respondent can exercise independent judgment as to whether or not to dispense pursuant to N.J.S.A. 45:14-66(c).

2. Respondent failed to pay the costs associated with the Consent Order dated May 23, 2000 and thus failed to meet a previous condition imposed by the Board. Because of this conduct, the respondent does not meet the requirements for reinstatement of his pharmacy license under N.J.A.C. 13:39-2.17(c)4.

3. Respondent is not currently competent to engage in the practice of pharmacy as required by N.J.S.A. 45:1-21(I). His testimony demonstrates a patent lack of requisite knowledge of current medications and the laws that govern the practice of pharmacy today. He has failed to submit any documentation of continuing professional education. He has testified that he practiced pharmacy in the State of New York after he lost his license in New Jersey, but failed to provide proofs of that experience. He testified that he would need the supervision of another pharmacist regarding current laws and drugs should he return to practice, that he was not familiar with regulations governing Medicare Part D, that he has obtained no continuing education credits that can be documented, and that he is unaware of the current Continuing Education requirement for licensure.

Based on the foregoing findings and conclusions, a Provisional Order of Denial of Reinstatement denying respondent's request to reinstate his license to practice pharmacy in the State of New Jersey was entered on May 28, 2008 and a copy served on respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a

written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Although the record reflects that the Provisional Order was served upon respondent, no response has been received to date. Accordingly the Board considered the matter, determined that further proceedings were not necessary and the Provisional Order should be made final.

IT IS THEREFORE ON THIS 23<sup>rd</sup> DAY OF *July* 2008,  
ORDERED THAT:

1. Respondent's application to reinstate his pharmacy license in the State of New Jersey is hereby denied. Respondent's license is and shall continue to be revoked in the State of New Jersey, until further Order of the Board.

2. Prior to resuming active practice in New Jersey respondent shall be required to appear before the Board (or a committee thereof) to demonstrate his fitness to do so, and any practice in this State prior to said appearance shall constitute grounds for the charge of unlicensed practice. In addition, the Board reserves the right to place restrictions on respondent's practice should his license be reinstated.

NEW JERSEY STATE BOARD OF PHARMACY

By: *Edward G. McGinley*  
Edward G. McGinley, R.Ph.  
President